

FILED

JANUARY 30, 1986

IRWIN I. KIMMELMAN
ATTORNEY GENERAL OF NEW JERSEY

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

By: JOAN D. GELBER
Deputy Attorney General
Division of Law, Room 316
1100 Raymond Boulevard
Newark, New Jersey 07102
Tel. (201) 648-2478

ORIGINAL

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS
DOCKET NO.

IN THE MATTER OF AN INQUIRY INTO
PROFESSIONAL PRACTICES OF

MARCIA KESTEN, D.C.

LICENSED TO PRACTICE CHIROPRACTIC
IN THE STATE OF NEW JERSEY

: CIVIL ACTION
:
: Administrative Action
:
: FINAL ORDER
:
:
:
:

This matter was presented to the New Jersey State Board of Medical Examiners on inquiry initiated by the Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, into certain professional practices of Marcia Kesten, D.C. practicing at 255 Franklin Street, Hightstown, New Jersey 08520. Dr. Kesten is represented at this time by Leonard Goodkin, Esq., P.O. Box 308, Denville, N.J. 07834. It appears that on October 24, 1984, in reliance upon the advice of a prior attorney, Dr. Kesten established a professional corporation in conjunction with Elaine Burke, a graduate of a chiropractic college but unlicensed in the State of New Jersey. The New Jersey Professional Service Corporation Act permits the formation of a professional service corporation only to

persons who are duly licensed to render the professional service within this State.

Based upon the same reliance Dr. Kesten has allowed her name to be joined in advertising representations with Dr. Burke both in office stationery, distribution of publications, and on the office identification itself.

Dr. Kesten also has made available to patients a publication entitled "applied kinesiology in chiropractic examination", which includes numerous statements of questionable scientific validity including the following:

Nutritional factors, when chewed, have an immediate effect on the appropriate muscle strength. For example, if the muscle associated with the liver is weak and Vitamin A is indicated for liver support, chewing Vitamin A or carrot will cause immediate and dramatic strengthening of the muscle. Conversely, if a chemical such as an artificial sweetener is causing a problem in the liver, a strong muscle associated with the liver will immediately weaken when the substance is chewed.

The Board of Medical Examiners finds the above assertion to be unsupported by acceptable and responsible professional literature and is therefore misleading and deceptive when disseminated by a licensee of this Board. The Board further finds that the establishment of a professional corporation including an unlicensed person violates N.J.S.A. 14A:17-2 and is also misrepresentative and deceptive to the public. Notwithstanding the above, the Board

accepts Dr. Kesten's representation that said incorporation was made in good faith reliance upon the advice of her prior attorney.

For good cause shown,

IT IS on this 30th day of January 1986,

ORDERED:

1. Respondent shall immediately take such steps as may be necessary to effect compliance with The Professional Service Corporation Act, N.J.S.A. 14A:17-2 et seq., said steps to include but not be limited to requiring that all corporate shareholders possess chiropractic licensure within the State of New Jersey, as required by N.J.S.A. 14A:17-5 and -10 and that the corporate name of said professional corporation contains the full or last names of one or more of the shareholders or a name descriptive of the professional service in which the corporation is engaged. Said corporate name shall also contain the words "chartered" or "professional association" or "a professional corporation" or "P.A." or "P.C."
2. Respondent shall promptly remove from all professional stationery and office identification accessible to the public the name of any unlicensed person.
3. Respondent shall immediately refrain from any further distribution of the above-described kinesiology pamphlets, based upon its false and misleading representations as to permitted chiropractic practice in this State.
4. Respondent shall pay to the New Jersey State Board of Medical Examiners the sum of \$1,000 including penalty of \$890 and investigative costs of \$110. Said sum may be paid in equal monthly

installments of \$75 each, commencing
February 1, 1986.

THIS ORDER IS EFFECTIVE UPON FILING.

STATE BOARD OF MEDICAL EXAMINERS

By Edward W. Luka M.D.
Edward W. Luka, M.D.
President

I deny any knowing misrepresentation or misconduct regarding the matters set forth in the Order but consent to the entry thereof.

Marcia Kesten
Marcia Kesten, D.C.

[Signature]
Attorney for Dr. Kesten

Jan 24, 1966
Date